

Appl. No. : 09/709,105  
 Filed : November 10, 2000

# REMARKS

In the Office Action mailed December 19, 2002, the Examiner required restriction to one of two inventions:

- Group I (Claims 1-9 and 22-30), drawn to a process of using, classified in Class 606, Subclass 61; or
- Group II (Claims 10-21 and 31-42), drawn to an apparatus, classified in Class 606, Subclass 80.

The Examiner also required election of one product species and one method species from the following species:

<u>Product Species</u>	<u>Figure(s)</u>
1	7-9
2	19-21
3	22-25
<u>Method Species</u>	<u>Figure(s)</u>
1 (Posterior Boring)	10-13
2 (Anterior Boring)	14-18
3 (Divergent Boring)	26

In Applicant's Response to Restriction Requirement, dated January 21, 2003, Applicant elected, without traverse, to prosecute the claims directed to Group I (Claims 1-9 and 22-30), Method Species 2 (Figures 14-18), and Product Species 1 (Figures 7-9).

In the Office Action mailed April 17, 2003, the Examiner asserted that Claims 6-9 and 27-30 of Group I do not read upon the elected species; the Examiner withdrew Claims 6-9 and 27-30 from consideration. The Examiner rejected Claim 1 under 35 U.S.C. § 102(b) as being anticipated by Frazier. The Examiner allowed Claims 22-26, and objected to Claims 2-5 as being dependent upon a rejected base claim, but indicated that Claims 2-5 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In Applicant's Response to Office Action, dated August 18, 2003, Applicant cancelled Claim 1, without prejudice, and rewrote Claims 2-5 in independent form including all of the limitations of the base claim and any intervening claims. Applicant added new dependent Claims 43 through 50.

In the Notice of Non-Compliant Amendment mailed August 27, 2003, the Legal Instruments Examiner indicated that Applicant's Response to Office Action, dated August 18, 2003, is considered non-compliant because a complete listing of all of the claims were not present in the amendments to the claims. In response to the Notice of Non-Compliant Amendment, all of the claims (namely, Claims 1-50) have been listed herein. In view of the

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foregoing, Applicant respectfully submits that the present Supplemental Amendment complies with the requirements of 37 C.F.R. 1.121.

Prior to entry of the foregoing amendments, Claims 2 through 50 were pending in the present application. Claims 10-21 and 31-42 of Group II have been and cancelled herein, without prejudice. Previously added dependent Claims 43-50 have been cancelled herein, without prejudice. Applicant reserves the right to pursue claims of the same or similar scope to those cancelled herein in one or more continuing patent applications.

Claims 6-9, withdrawn from consideration by the Examiner in the Office Action mailed April 17, 2003, have been cancelled herein, without prejudice. Applicant reserves the right to pursue claims of the same or similar scope to those cancelled herein in one or more continuing patent applications. With respect to Claims 27-30, however, Applicant respectfully traverses the Examiner's withdrawal of Claims 27-30 from consideration. 37 C.F.R. § 1.141 (2003) states:

[M]ore than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims in one national application, provided the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form (§ 1.75) or otherwise include all the limitations of the generic claim.

Claims 27-30 are dependent upon allowed Claim 22. Consequently, Claim 22 is an allowable claim generic to Claims 27-30. Accordingly, Applicant respectfully requests consideration of Claims 27-30.

In view of the foregoing, Applicant respectfully submits that all pending claims of the present application are in condition for allowance, and such action is earnestly solicited. If, however, any questions remain, the Examiner is cordially invited to contact the undersigned so that any such matter may be promptly resolved.

Applicant notes that correspondence relating to the present application is still being addressed and sent to previous counsel for Applicant. On October 13, 2001, Applicant filed an Establishment of Right of Assignee to Take Action and Revocation and Power of Attorney form appointing the registrants of Knobbe, Martens, Olson & Bear, LLP, Customer No. 20,995, as its attorneys to prosecute the present application. A copy of this form and return postcard are provided herein. Applicant respectfully requests that the information in the Establishment of Right of Assignee to Take Action and Revocation and Power of Attorney be re-entered or updated in the present application.


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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 9/16/03

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